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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

EXAMINER	
SCHEIBEL, ROBERT C	

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/088,683
Filing Date: July 09, 2002
Appellant(s): EMMERINK ET AL.

Jeffrey J. Howell (Reg. No. 46,402)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/2/2007 appealing from the Office action mailed 2/22/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,982,950	Gardner	1-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-17** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,982,950 to Gardner.

Regarding claim **1**, Gardner teaches a method for setting up and/or clearing a communications link via communication devices of at least a first and a second type (e.g., see abstract, and see also col. 5, lines 33-41 regarding "first switching system 206 and second switching system 208" and col. 6, lines 53-61 regarding "the second switching system 208 is another type of switch"), comprising: signaling the at least first and second type of

communication devices to control the setting up and/or clearing of the communications link (e.g., see col. 6, lines 4-52 regarding "The signaling processor 224 ... generates and transports control messages that identify the selected connections", "The ATM matrix 226 is a controllable ATM matrix that establishes connections in response to control messages received from the signaling processor 224", and "The ATM matrix 226 transmits and receives call signaling and user communications over the connections"); and setting up and/or clearing the connection for the first type via at least one decentralized switching device (e.g., via switching system 206, see FIG. 2 and col. 5, line 59 - col. 6, line 32), wherein the signaling takes places from the central device (e.g., signaling takes place from the centralized "tandem system 204", see col. 5, line 33 - col. 7, line 52; particularly col. 6, lines 4-20 regarding "tandem system 204 comprises a signaling processor 224" and "signaling processor 224 is a signaling platform that can receive, process, and generate call signaling").

Regarding claim **2**, Gardner teaches the connection is set up and/or cleared via a central device for the second type (e.g., see col. 6, line 53 - col. 7, line 52 regarding centralized "tandem system 204" performing connection operations including at least connection setup).

Regarding claim **3**, Gardner teaches the connection is set up via a transport network for the first type (e.g., see col. 2, lines 3-18 regarding "The system comprises a first switching system that transports the user communications over a first connection", and also see FIG. 3 regarding first type comprising "networking unit 302").

Regarding claim **4**, Gardner teaches the central device (e.g., tandem system 204) controls a decentralized switching device (e.g., switching system 206, see FIG. 2) (e.g., see col. 6, lines 4-52 regarding operation of "tandem system 204").

Regarding claim **5**, Gardner teaches communications data for the communications link is converted in the region of a decentralized switching device for communication devices of different types (e.g., see col. 10, line 26 - col. 12, line 24; particularly col. 10, line 57 - col. 11, line 8 regarding "interface 506 ... converts the user communications to ... [a different] format").

Regarding claim **6**, Gardner teaches setting up and/or clearing the communications link from a communications terminal which is configured for connection via time slots in a time slot multiplexing connection (e.g., see col. 5, lines 42-47 regarding "time division multiplex (TDM) base calls can be connected by the tandem system 204"), the connection being set up via a transport network (e.g., see col. 2, lines 3-18 regarding "The system comprises a first switching system that transports the user communications over a first connection", and also see FIG. 3 regarding first type comprising "networking unit 302") by producing, in the central device (e.g., tandem system 204), at least one time slot (e.g., TDM communications at col. 5, lines 42-47 inherently comprise timeslots) control information item which is used for setting up connections in the transport network (e.g., see col. 6, lines 8-20 regarding "signaling processor 224 [within tandem system 204] ... generates and transports control messages that identify the selected connections"), and one time slot (e.g., TDM communications at col. 5, lines 42-47 inherently comprise timeslots) is reserved for transferring communication data between communication devices of different types (e.g., see col. 6, lines 21-32 regarding "The ATM matrix 226 transmits and receives call signaling and user communications over the connections"; see also col. 6, line 56 regarding "the second switching system 208 is another type of switch'" and col. 10, line 57 - col. 11, line 8 regarding "interface 506 ... converts the user communications to ... [a different] format").

Regarding claim 7, Gardner teaches the time slot (e.g., TDM communications at col. 5, lines 42-47 inherently comprise timeslots) control information is linked to a transport-network-specific information item (e.g., identifier for the selected connection) and is transmitted to a decentralized device (e.g., switching system 208) (e.g., see col. 6, lines 8-20 and 46-52 regarding "signaling processor 224 [within tandem system 204] ... generates and transports control messages that identify the selected connections" and "the call is received by the second switching system").

Regarding claim **8**, Gardner teaches an asynchronous transmission is used for transmission via the communications link (e.g., see col. 5, lines 29-32 regarding "the present invention includes a system for providing a tandem switching system for an asynchronous transfer mode (ATM) network").

Regarding claim **9**, Gardner teaches a system for setting up and/or clearing a communications link via communication devices of at least a first and a second type (e.g., see abstract, and see also col. 5, lines 33-41 regarding "first switching system 206 and second switching system 208'" and col. 6, lines 53-61 regarding "the second switching system 208 is another type of switch"), comprising: a transport network (e.g., comprising links 210, 212 and 214 to/from switching systems 206 and 208) to provide the communications link between communication devices of a first type (e.g., devices connecting to 216 and 218 links at switching system 206, see FIG. 2); a control network (e.g., tandem system 204) to control the setting up and/or clearing of the communications link (e.g., see col. 6, lines 4-32 'regarding operations of tandem system 204 for at least setting up communication links); a switching matrix (e.g., ATM matrix 226) to provide the communications link between communications of the second type

(e.g., devices connecting to 220 and 222 at switching system 208); and a device (e.g., signaling processor 224) to control the setting up and/or clearing of connections in the transport network through the control network (e.g., see col. 6, lines 4-32 regarding "The signaling processor is a signaling platform that can receive, process, and generate call signaling ... [and] also selects virtual connections and circuit-based connections for call routing and generates and transports control messages that identify the selected connections"), the device being operatively connected to the switching matrix (e.g., ATM matrix 226, connected via link 228), and connection control information for the switching matrix (e.g., ATM matrix 226) being supplied to them as part of a control information item (e.g., see col. 6, lines 8-20 regarding "signaling processor 224 [within tandem system 204] ... generates and transports control messages that identify the selected connections" and "ATM matrix 226 transmits and receives call signaling and user communications over the connections. Typically ATM matrix transmits call signaling to and from the signaling processor 224").

Regarding claim **10**, Gardner teaches the transport network (e.g., comprising links 210, 212 and 214 to/from switching systems 206 and 208) has a different topology than the control network (e.g., tandem system 204) (e.g., see FIG. 2 and col. 5, line 33 - col. 7, line 52 describing the unique topology of tandem system 204).

Regarding claim **11**, Gardner teaches the transport network has at least one decentralized device (e.g., switching system 206, see FIG. 2) for connection of a communications terminal (e.g., at links 216 and 218), and has a switching device in the region of the decentralized device (e.g., switching system 206 by definition comprises a switching device) which provides the communications link (e.g., link 210 and/or 214) in the transport network.

Regarding claim **12**, Gardner teaches the communication device of the second type (e.g., see col. 6, line 56 regarding "the second switching system 208 is another type of switch") has at least one peripheral device with at least one device for connection of a communications terminal (e.g., inherently at one of links 220 and 222), and has a switching device (e.g., switching system 208 by definition comprises a switching device) to provide the communications link (e.g., link 212 and/or 214) in the transport network.

Regarding claim **13**, Gardner teaches a conversion apparatus for conversion of communication data (e.g., see col. 10, line 26 - col. 12, line 24; particularly col. 10, line 57 -col. 11, line 8 regarding "'interface 506 ... converts the user communications to ... [a different] format"), which conversion apparition converts communication data in at least one data flow direction as a function of the type of communication device, with at least data types for a communication device of the first type and for a communication device of the second type (e.g., see col. 10, line 56 - col. 11, line 14 regarding conversion for OC-N or STS-N formats corresponding to the interface type).

Regarding claim **14**, Gardner teaches the conversion apparatus is configured in the data flow in the immediate vicinity of a decentralized switching device (e.g., see col. 10, line 26 - col. 12, line 24; particularly col. 10, line 57 - col. 11, line 8 regarding "interface 506 ... converts the user communications to ... [a different] format"; and see FIG. 5 regarding placement of interface 506 by communication device 524).

Regarding claim **15**, Gardner teaches a central device (e.g., link 228, see FIG. 2) to provide at least one connection-related service feature (e.g., for sending/receiving call signaling, see col. 6, lines 3-20), the device (e.g., link 228) being operatively connected to the central

device (e.g., coupling signaling processor 224 to ATM matrix 226 within tandem system 204, see FIG. 2).

Regarding claim **16**, Gardner teaches the system is in the form of a private branch exchange (e.g., see col. 5, line 59 - col. 6, line 3 regarding "CPE can be a private branch exchange") and has at least one decentralized device for connection of communications terminals (e.g., see col. 5, line 59 - col. 6, line 3 regarding "The switching systems 206 and 208 comprise ... customer premise equipment (CPE), ... or any other device capable of handling a call").

Regarding claim **17**, Gardner teaches a control device to provide the communications link in the region of the decentralized device, if a central control device is not available (e.g., see col. 6, line 53 - col. 7, line 17 regarding when "connection 214 is not available .... The call is alternatively routed through the tandem system 204").

(10) Response to Argument

In section A on page 9, Applicant cites case law related to the rejection of claims under 35 U.S.C. 102.

In section B on page 9, Applicant summarizes the field of the invention.

In section C1 on pages 9-10, Applicant argues that Gardner fails to disclose first and second types of communication devices. Applicant's argument is two-fold.

First, Applicant argues that a switching system is not a communication device and thus elements 206 and 208 of Gardner do not anticipate the communication devices of the claim language. In support of this argument, Applicant submits that claim 1 recites another element which is a switching device. Since both a communication device and switching device are separate elements of the claim, Applicant argues that they cannot be the same type of device and thus cannot be anticipated by elements 204, 206, and 208, which are similar devices.

Examiner respectfully disagrees. The fact that three separate elements exist in the claim indicates that three separate physical elements of the reference may be required to anticipate these elements. However, this does not prevent these elements from being related in scope. In this case, Applicant has two communication devices which can be anticipated by a broad set of devices (i.e. those devices that communicate, including switching devices). Applicant has also indicated a switching device which can also be anticipated by a broad set of devices (those devices that switch data). The sets defined by these two terms cover different, but intersecting scopes; the set of devices defined by the term switching device is a subset of the set of devices defined by the term communication device. Therefore, it is completely reasonable to use the three separate switching devices (which are also different types of switching devices) to anticipate the broad claim language of claims 1 and 9.

Second, in the last paragraph of section C1, Applicant argues that the elements 204, 206, and 208 are all the same type of device (switching device) and thus cannot anticipate two different types of communication devices and another type of device (switching device). However, Gardner clearly indicates that the switching devices can be different types of switching devices (see lines 53-61 of column 6, for example).

In section C2 on page 10, Applicant argues that the language "signaling takes place from a central device" in claim 1 necessarily requires that the signaling originate at the central device. Examiner respectfully disagrees. Clearly, to meet this limitation, the signaling cannot terminate at the central device; the signaling must be transmitted to another device. However, the signaling can either originate at the central device, or somewhere else "upstream" of the central device. In either case, the signaling is transmitted from the central device and meets a broad, but reasonable, interpretation of the meaning of the broad phrase "takes place from". In either case, the devices 204, 206, and 208 of Gardner are capable of originating signaling to set up a communication link as well as transmitting signaling originated upstream. This is discussed in more detail in response to the argument of section C3 below.

In section C3 on page 11, Applicant argues that Gardner does not teach signaling the first and second types of communication devices to control the setting up and/or clearing of the communications link. Examiner respectfully disagrees. As is clearly indicated in the rejection, Gardner (in lines 4-52 of column 6) discloses that the switching systems (elements 204, 206 and 208) contain elements (signaling processor 224 and ATM matrix 226) which "generate and transport control messages" (signaling) and each switching device (as performed by the ATM matrix) "establishes connections in response to the control messages". Thus, Gardner clearly discloses signaling these devices (by generating control messages) to establish connections (thus at least disclosing setting up a communications link).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert C Scheibel 12-3-07

Robert C. Scheibel, Jr.

Patent Examiner, Art Unit 2619

Wing Fu Chan 12/5/07

WING CHAN
SUPERVISORY PATENT EXAMINER

Conferees:

Wing F. Chan

Supervisory Patent Examiner, Art Unit 2619

Edan Orgad

Supervisory Patent Examiner, Art Unit 2619

EDAN ORGAD
SUPERVISORY PATENT EXAMINER